
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

ALI M. ALI,

Plaintiff,

vs.

**NATIONAL ENTERPRISE SYSTEMS,
INC.,**

Defendant.

**ORDER AFFIRMING & ADOPTING
REPORT & RECOMMENDATION**

Case No. 2:22-CV-00076-DAK-DBP

Judge Dale A. Kimball

Chief Magistrate Judge Dustin B. Pead

This case was assigned to United States District Court Judge Dale A. Kimball, who then affirmed the prior reference to United States Chief Magistrate Judge Dustin B. Pead under 28 U.S.C. § 636(b)(1)(B). On April 25, 2022, Chief Magistrate Judge Pead issued a Report and Recommendation [ECF No. 12], recommending that Plaintiff's action be dismissed. The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. Plaintiff has not submitted an objection as of the date of this Order, which is twenty-two days past the issuance of the Report and Recommendation. The court, therefore, assumes the deadline for submitting an objection has passed.

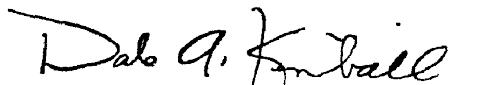
A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo* and agrees with Chief Magistrate Judge Pead's recommendations for dismissing Plaintiff's claims. As a non-attorney, Mr. Ali cannot represent Mr. Gierhart's legal claims in federal court, and he cannot bring this case pro se

because he is an assignee. Utah Code Ann. § 78A-9-103. The court also agrees that Mr. Ali's argument to circumvent this prohibition based on Utah Code Ann. § 75-9-212 is unpersuasive. That Act does not allow an attorney-in-fact to file a lawsuit when the power of attorney is coupled with an interest in the subject of the power – as is the case here. Thus, Mr. Ali is not authorized under Utah law to bring claims on Mr. Gierhart's behalf, and the court accordingly dismisses Plaintiff's action.

Therefore, the court adopts and affirms Chief Magistrate Judge Pead's Report and Recommendation as to the dismissal of Plaintiff's action. Because this dismissal resolves all of the claims in Plaintiff's action, the court dismisses this action with prejudice.

DATED this 17th day of May, 2022.

BY THE COURT:



DALE A. KIMBALL
United States District Judge